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NO. 788 P. 3/5

FRICK LEAHY  
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COMMITTEES  
AGRICULTURE, NUTRITION, AND  
FORESTRY  
APPROPRIATIONS  
JUDICIARY

**United States Senate**  
WASHINGTON, DC 20510-4502

B4

RELEASED IN FULL

August 30, 2000

The Honorable Madeleine Albright  
Secretary of State  
Department of State  
2201 C. St. NW  
Washington, D.C. 20520

Dear Madam Secretary:

I am writing to urge you to conduct a review of United States Government funds made available to units of the Colombian military that have been credibly alleged to have taken part in the 1998 Santo Domingo massacre.

According to information I recently received, there appears to be credible evidence that these units committed a gross violation of human rights when they fired on the village on December 13, 1998, killing seven children and ten adults. Far from moving quickly to investigate and punish those responsible, the military went to considerable lengths to cover up its involvement and flout the law.

In accordance with the "Leahy Law" [Sec. 564 of the Fiscal Year 2000 Foreign Operations Appropriations Act], aid to these units should be suspended until you can report to the Committees on Appropriations that the Colombian Government is taking effective measures to bring the responsible members of the security forces unit to justice. Among them are Comando Aéreo de Combate No. 2, based in Villavicencio, which I believe had been cleared to receive U.S. aid.

It is my understanding that this incident took place in the course of anti-drug operations by the Colombian military, which was using equipment, including airplanes, donated by the United States. On December 12, the Colombian military detected a suspicious plane landing at Santo Domingo. Present on the ground were guerrillas believed to belong to the Revolutionary Armed Forces of Colombia (FARC).

That afternoon, the Colombian Air Force told the press that it had sent aircraft to pursue the FARC near Santo Domingo. According to local officials, residents heard gunfire outside the village, prompting them to gather at a central point to demonstrate that they were not engaged in combat. When night fell, they illuminated themselves with portable lights to show that they were civilians.

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UNITED STATES DEPARTMENT OF STATE  
REVIEW AUTHORITY: DONALD A. JOHNSTON  
DATE/CASE ID: 29 MAY 2002 200102988

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The next day they reportedly indicated that Colombian military aircraft, including an OV-10 Bronco and helicopters, flew over the village. In later interviews, residents denied that FARC guerrillas were present in the village, as was alleged by the Colombian military, but did report that guerrillas were in the vicinity. Residents told investigators that they purposefully remained in the streets, some with their hands up, to show that they were not guerrillas.

Nevertheless, at approximately 9:45 am, villagers said that a military helicopter fired an explosive at the village, hitting a civilian dwelling. Instantly killed were Deysy Catherine Cárdenas, age seven, and her five-year-old sister, Edna Margarita. Mrs. Cárdenas was also wounded. Another Cárdenas child, four-year-old Jaime, died later in a hospital along with the Cárdenas's seven-year-old grandchild. A fifth child died as he was being transported to the nearest hospital.

It is my understanding that evidence immediately available after the attack strongly suggested that the deaths occurred after a military helicopter fired on the village. Nevertheless, the military claimed that a car bomb placed by the FARC caused the deaths, a version flatly contradicted by eyewitnesses. The military also widely distributed a video that it purported showed evidence to support its claim. The U.S. Embassy cited the Colombian military's denials and video in its response to my initial inquiry about this incident on December 22, 1998. Ambassador Kamman wrote back on December 30, 1998, that "the Colombian government is treating the incident with the utmost seriousness . . . [the] government . . . has repeatedly denied that any . . . weapons were fired into the town by the Colombian military . . . the civilian deaths happened during and in the context of a military clash between the armed forces and [the FARC] . . . I emphasize that, should it transpire that the Colombian military were after all guilty of indiscriminate use of weaponry in the course of this action, the U.S. government would condemn it . . ."

On December 19, 1999, the military version was further contradicted by a Colombian Medical Forensic Institute report that concluded that the explosive came from above, not from a car bomb. Asked to review ballistic evidence, the United States FBI concluded on May 1, 2000, that the explosive was a "United States designed AN-M41 fragmentation bomb and fuze."

The FBI report noted that the AN-M41 is a high-level fragmentation bomb "designed to be dropped from a minimum altitude of 400 feet." It operates by dispersing high-velocity shrapnel that "could cause property damage, personal injury or death." The FBI found no evidence of so-called improvised delivery systems, meaning that it had likely been used according to specifications, i.e. suspended individually from a helicopter or dropped as part of a cluster of six bombs loaded into a Cluster Adapter.

Currently, the crew of one helicopter is under investigation by the military in relation to this incident. Additionally, the Procuraduría is investigating one army major and this same crew for administrative violations only.

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While it is possible that this incident was the result of a tragic mistake, the Colombian military's efforts to evade responsibility suggest otherwise. At the very least, in view of the military's record of impunity and its cover-up of its involvement here, I do not believe that the current military and administrative investigations satisfy the requirement of "effective measures" set out in Sec. 564. Military judges continue to retain or seek jurisdiction over cases involving gross violations of human rights on the grounds that the accused was on duty at the time of the alleged crime. Thus, any criminal act becomes an "act of service" simply because the accused was wearing a uniform or on active duty. These tribunals have repeatedly failed to adequately punish military personnel for human rights violations.

I would suggest that "effective measures" can only be satisfied when this case is transferred to civilian jurisdiction and allowed to proceed with an impartial and fair trial. Furthermore, to my knowledge, higher-ranking officers who may have ordered the attack or participated in the cover-up have yet to be investigated or charged.

Again, I believe this incident may trigger Sec. 564, and that a review is warranted. I look forward to hearing from you.

With best regards,



PATRICK LEAHY  
Ranking Member  
Foreign Operations Subcommittee

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